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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,746	07/15/2003	Connie R. Draveling	276.0006CON	6932

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EXAMINER

LE, HOA T

ART UNIT PAPER NUMBER

1773

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,746

Applicant(s)

DRAVELING

Examiner

H. T. Le

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-9 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 2-4, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 4 and 10-12 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the nickel-chelated agarose, does not reasonably provide enablement for any other type of chelating metals or chromatography media. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or the invention commensurate in scope with these claims. The specification does not disclose a method for chelating a chromatography media with a metal, but rather in the working examples, it shows a commercially available nickel-chelated agarose being used as chromatography media in their claimed invention, i.e. chromatography media pellet. Therefore, the only support the instant disclosure provides as far as the media is concern is nickel-chelated agarose, or agarose having been chelated with nickel. Therefore, claims 4 and 10, which broadly recite the feature "media is chelated with metal" (in claim 4) or "the step of chelating media with a metal" (in claim 10), are deemed broader than the enabling scope of the disclosure. Claims 11 and 12 are rejected in view of their dependency on claim 4 and 10, respectively.
2. Claims 2-4 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the term “characterized in that” is unclear. It is suggested that the claim be amended to employ the format “wherein the pellet comprises” or “comprising”, which format is more appropriate in the US patent practice.

Other claims are deemed indefinite in view of their dependency upon claim 2.

Allowable Subject Matter

3. Claims 5-9 are allowed.
4. Claim 2 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
5. Claims 3 and 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
6. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record, singly or in combination, teach or suggest a pellet of agarose, dextran or acrylamide/azalactone copolymer, wherein (1) the pellet is formed from an aggregate of distinct beads having specific hardness as claimed, (2) the aggregate is coherent, (3) and the pellet is rapidly hydrated (capable of forming a gel in water within 120s), and (4) the media has been derivatized with a ligand.
7. The Simons article (“Ligand-Receptor-G-Protein Molecular Assemblies on Beads for Mechanistic Studies and Screening by Flow Cytometry”) discloses crosslinked agarose/dextran beads being derivatized to carry chelated nickel to bound to a G protein.

However, the publication of the article is later than the effective filing date of the present application.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511. The examiner can normally be reached on 10:00 a.m. to 6:30 p.m., Mondays to Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



H. T. Le
Primary Examiner
Art Unit 1773

June 26, 2005